

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

**FILED**  
APR - 8 2005

*[Signature]*  
CLERK

\*\*\*\*\*

UNITED STATES OF AMERICA,

Plaintiff

vs.

CLAUDETTE RAI GH WALKING ELK,

Defendant

CR. 05-10005

REPORT AND RECOMMENDATION  
FOR DISPOSITION OF  
DEFENDANT'S MOTION TO DISMISS  
INDICTMENT, DOCKET NO. 20

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Defendant, Claudette Raigh Walking Elk, filed a Motion to Dismiss Indictment, Docket No. 20. Because defendant's Motion is a dispositive one, this Court is only authorized to determine the same on a report and recommendation basis. See 28 U.S.C. § 636 (b)(1). Based on the findings, authorities and legal discussion made on the record at the April 2, 2004 hearing, the Court

RECOMMENDS that the defendant's Motion be DENIED in its entirety and with prejudice.

Dated this 7<sup>th</sup> day of April, 2005, at Aberdeen, South Dakota.

BY THE COURT:

*[Signature of Myles J. Devine]*

MYLES J. DEVINE  
UNITED STATES MAGISTRATE JUDGE

ATTEST:  
JOSEPH HAAS, CLERK

BY:

*[Signature of Joseph Haas]*  
Deputy

(SEAL)

(NOTICE)

Failure to file written objections to the within and foregoing Report and Recommendations for Disposition within ten (10) days from the date of service shall bar

an aggrieved party from attacking such Report and Recommendations before the assigned United States District Judge. See 28 U.S.C. § 636(